REMARKS

Pending Infringement Litigation

This Reissue Application involves an issued patent which is the subject of a pending

5   infringement action in Federal District Court (Newark, New Jersey).

Applicant includes with this REISSUE APPLICATION an INFORMATION DISCLOSURE STATEMENT accompanied by copies of all cited references. The handwritten annotations on the copies of the references are not Applicant's, and Applicant is not bound by any handwritten annotations. Copies of references produced to the Applicant by the accused

10   infringer are believed true and correct copies, albeit Applicant lacks first-hand knowledge to verify this. Note that certain of the references provided are not competent as "prior" art, because they post-date the latest date for prior art citable. Applicant apologize in advance for any inconvenience imposed on the Office by the volume of references provided, but Applicant has represented to the Court hearing the pending infringement litigation that all of

15   this material would be provided to the Office.

In the pending infringement action, the alleged infringer says, "The Szynalski patent specification itself, at column 2, lines 15-43 and at column 3, lines 30-60, includes almost verbatim, the identical wording found in Gorayeb's 1996 workbook" and "Upon information and belief, he material in the Szynalski patent specification, at column 2, lines 15-43 and at

20   column 3, lines 30-60 was copied from Gorayeb Seminar, Inc.'s "Stop Smoking" workbook. DEFENDANTS' ANSWER at 59-60 (Civ. 03-1051 (KSH), April 10, 2003). The Gorayeb workbook referred to is included in the attached INFORMATION DISCLOSURE STATEMENT. Applicant respectfully believes that, assuming the Defendants' allegations are true, they are irrelevant; that is, assuming Applicant did copy the cited portion of the Specification, copying

25   this material does not affect the validity nor enforceability of the patent claims. Applicant, however, respectfully requests that the Examiner make an independent evaluation of this issue and identify any potential problems.

Claim Amendments

30   These claim amendments must be accompanied by an explanation of the support in the disclosure. *See* 37 C.F.R. § 1.173(c). The following terms in the new claims are supported by the Specification as, *inter alia*, listed below:

Claim Term	Support	Comments
Ephedrine	col. 11, ln 42 et seq.	
Mahuang	col. 11, ln 42 et seq.	
caffeine	Amendment (19 Sept. 2001)	Caffeine is known in the art as a stimulant.
lobelia	col. 7, ln 17 et seq.	
wood betony	col. 7, ln 49 et seq.	
gotu kola	Col. 8, ln 41 et seq.	
kava kava	Col. 8, ln 48 et seq.	
valerian	Col. 9, ln 18 et seq.	
passionflower	Col. 9, ln 32 et seq.	
ginseng root	Col. 11, ln 27 et seq.	
peppermint	Col. 8, ln 57 et seq.	
ginger root	Col. 9, ln 36 et seq.	
licorice root	Col. 7, ln 67 et seq.	
gynema sylvestre	Col. 10, ln 60 et seq.	
inositol	Col. 10, ln 46 et seq.	
vanadium	Col. 10, ln 54 et seq.	
chromium	Col. 9, ln 59 et seq.	

The Examiner is reminded that the claim term "anti-smoking drug" means a substance with antidepressant or anxiolytic activity. *See* AMENDMENT at page 5 (19 Sept. 2001). It is not limited to pharmaceuticals; to the contrary, the Specification specifically teaches a variety of *non*-pharmaceutical substances with antidepressant activity. The claim term does, however, require the substance have antidepressant or anxiolytic activity; anti-smoking products which simply make cigarettes taste bad, for example, are not within the scope of the term.

SUMMARY

Applicant respectfully believes the application is in condition for prompt examination and allowance.

Respectfully submitted,

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Mark POHL, Reg. No. 35,325
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Pharmaceutical Patent Attorneys LLC
55 Madison Avenue, 4th floor (P 4014)
Morristown, NJ 07960-7397 USA
Direct *Mark.Pohl@LicensingLaw.Net*
15 ☎ +1 (973) 984-0076

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